

adequately compensated for by annual adjustments.

(iii) The Owner must submit financial information to the PHA which clearly supports the increase. For Contracts of more than twenty units, the Owner must submit audited financial information.

(b) *Overall limitation.* Notwithstanding any other provisions of this part, adjustments as provided in this section must not result in material differences between the rents charged for assisted and comparable unassisted units, as determined by the PHA (and approved by HUD in the case of adjustments under paragraph (a)(2) of this section). However, unless the rents have been adjusted in accordance with § 882.409, this limitation should not be construed to prohibit differences in rents between assisted and comparable unassisted units to the extent that differences existed with respect to the initial Contract Rents.

(Approved by the Office of Management and Budget under OMB approval number 2577-0196)

[47 FR 34379, Aug. 9, 1982, as amended at 59 FR 47773, Sept. 16, 1994]

#### **§ 882.411 Payments for vacancies.**

(a) *Vacancies from execution of Contract to initial occupancy.* If a Contract unit which has been rehabilitated in accordance with this Program is not leased within 15 days of the effective date of the Contract, the Owner will be entitled to housing assistance payments in the amount of 80 percent of the Contract Rent for the unit for a vacancy period not exceeding 60 days from the effective date of the Contract, provided that the Owner (1) has complied with §§ 882.506(d) and 882.508(c); (2) has taken and continues to take all feasible actions to fill the vacancy; and (3) has not rejected any eligible applicant except for good cause acceptable to the PHA.

(b) *Vacancies after initial occupancy.* (1) If an Eligible Family vacates its unit (other than as a result of action by the Owner which is in violation of the Lease or the Contract or any applicable law), the Owner may receive the housing assistance payments due under the Contract for so much of the month in which the Family vacates the unit

as the unit remains vacant. Should the unit continue to remain vacant, the Owner may receive from the PHA a housing assistance payment in the amount of 80 percent of the Contract Rent for a vacancy period not exceeding an additional month. However, if the Owner collects any of the Family's share of the rent for this period, the payment must be reduced to an amount which, when added to the Family's payment, does not exceed 80 percent of the Contract Rent. Any such excess must be reimbursed by the Owner to the PHA. The Owner will not be entitled to any payment under this paragraph (b)(1) of this section unless the Owner:

(i) Immediately upon learning of the vacancy, has notified the PHA of the vacancy or prospective vacancy, and

(ii) has taken and continues to take all feasible actions specified in paragraphs (a) (2) and (3) of this section.

(2) If the Owner evicts an Eligible Family, the Owner will not be entitled to any payment under paragraph (b)(1) of this section unless the PHA determines that the Owner complied with all requirements of the Contract.

(c) *Prohibition of double compensation for vacancies.* The Owner will not be entitled to housing assistance payments with respect to vacant units under this section if the Owner is entitled to payments from other sources (for example, payments for losses of rental income incurred for holding units vacant for relocatees pursuant to Title I of the HCD Act of 1974 or payments for unpaid rent under § 882.112 (Security and Utility Deposits)).

#### **§ 882.412 Subcontracting of owner services.**

(a) *General.* Any Owner may contract with any private or public entity to perform for a fee the services required by the Agreement, Contract or Lease, provided that such contract may not shift any of the Owner's responsibilities or obligations.

(b) *PHA management.* If the Owner and a PHA wish to enter into a management contract, they may do so provided that:

(1) The Housing Assistance Payments Contract with respect to the housing